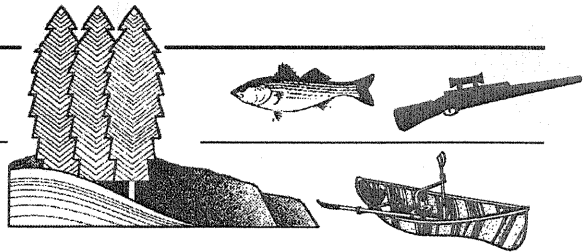


Assembly Committee on:

# Natural Resources

State Representative

DuWayne Johnsrud, Chair



## MEMORANDUM

DATE: February 19, 1996  
TO: Members, Assembly Natural Resources Committee  
FROM: DuWayne Johnsrud, Chair  
RE: rule referral

The following Rules have been referred to our committee:

Clearinghouse Rule 93-032	Relating to petitions for variance and private sewage systems. Submitted by Department of Industry, Labor and Human Relations.
Clearinghouse Rule 93-033	Relating to mound type private sewage systems. Submitted by Department of Industry, Labor and Human Relations.

Our current review period extends through March 20, 1996. Copies of each rule summary are enclosed. Please contact my office if you would like a copy of any rule.



# WISCONSIN LEGISLATURE

P.O. Box 7882 • Madison, WI 53707-7882

March 12, 1996

Representative DuWayne Johnsrud, Chair  
Natural Resources Committee  
Room 323 North  
State Capitol

Dear Chairperson Johnsrud:

The purpose of this letter is to request that you schedule an executive session in the Natural Resources Committee to discuss possible modifications to ILHR 83, Clearinghouse Rules 93-32 and 93-33.

Sincerely,

*Peter Bock*

*Al Bitt*

Assembly Committee on:

# Natural Resources

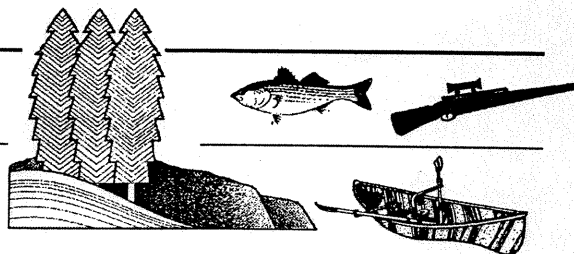
State Representative

DuWayne Johnsrud, Chair

March 20, 1996

Secretary Carol Skornicka  
Department of Industry,  
Labor and Human Relations  
201 East Washington Avenue

Secretary Bill McCoshen  
Department of Development  
123 West Washington Avenue



Dear Secretary Skornicka and Secretary McCoshen:

The Assembly Committee on Natural Resources recently held a hearing on Clearinghouse Rules 93-032 and 93-033, relating to variances for private sewage system regulations and construction standards for mound private sewage systems.

As you know, the Committee received testimony regarding the potential environmental effect of these rules, the absence of an environmental impact statement and the land use concerns related to the use of private sewage systems and a number of members are particularly concerned with the potential effects the rules may have in regard to those issues.

Members of the Committee are aware that decisions of the Department related to private sewage system approval and installation have substantial effects of land use in this state. Thus, the Department should take a leadership role in seeking a solution to the land use issues that are of such great concern in this state. Members would hope that the Department's designee participating in the Interagency Land Use Council would make a very strong effort to help develop solutions to the land use issues that confront us.

Further, it is critical that the petition for variance process not be abused. The petition process should be used on a site specific basis and approvals must only be granted when it can be demonstrated that equal or better water quality protection would be achieved. In order for the Committee to monitor the application of the proposed rule, the Department could provide members with periodic updates on the number and type of approvals granted as it relates to the siting of alternative technologies.

With regard to new technologies, the Committee is particularly interested in information relating to any maintenance provisions associated with petition approvals.

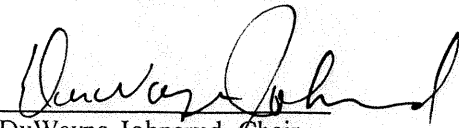
It is also the Committee's intention to not lose sight of the Department's more comprehensive rewrite of the private sewage system code (ILHR 83). The committee is interested in seeing progress on the development of the Environmental Impact Statement associated with that rule. The impact statement should provide a detailed analysis of the potential secondary impacts in those areas most affected by the proposed changes.

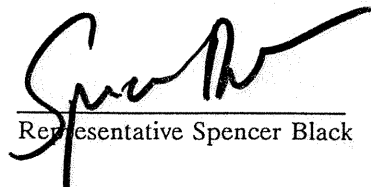
Please be advised that the committee will be monitoring closely the Department's actions as it moves forward on modifications to ILHR 83.

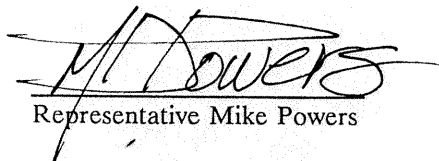
Lastly, the Committee feels very strongly that the Department must ensure that they provide adequate and ongoing protection of our state's groundwater resources whether it be in the context of the current prescriptive codes or the forthcoming comprehensive performance based code.

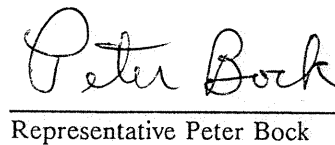
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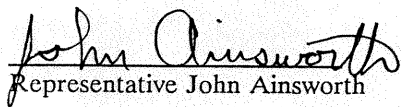
Members, Natural Resources Committee

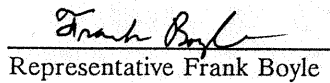
  
DuWayne Johnsrud, Chair

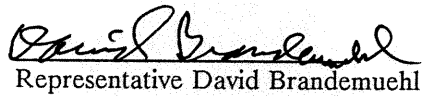
  
Representative Spencer Black

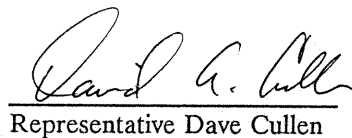
  
Representative Mike Powers

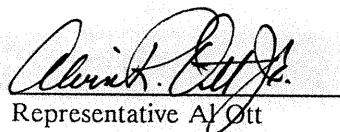
  
Representative Peter Bock

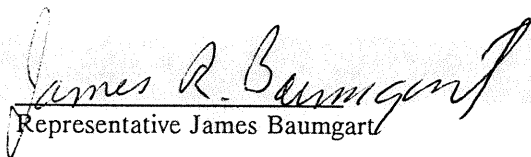
  
Representative John Ainsworth

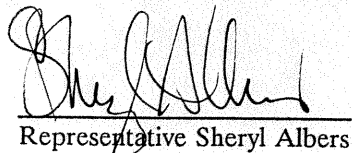
  
Representative Frank Boyle

  
Representative David Brandemuehl

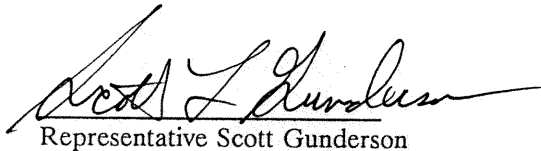
  
Representative Dave Cullen

  
Representative Al Ott

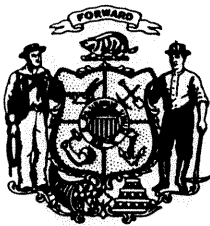
  
Representative James Baumgart

  
Representative Sheryl Albers

  
Representative Tom Springer

  
Representative Scott Gunderson

  
Representative Dave Hutchison



COPY

## **BRIAN BURKE**

WISCONSIN STATE SENATOR

Legislative Council • Committee on Environment and Energy • Judiciary Committee

March 7, 1996

Senator David Zien, Chair  
Committee on Human Resources, Labor, Tourism,  
Veterans and Military Affairs  
119 Martin Luther King Blvd., Room 511  
INTER-DEPARTMENTAL MAIL

Re: Clearinghouse Rules 93-032 & 93-033

Dear Senator Zien:

I am writing to request a public hearing on Clearinghouse Rules 93-032 and 93-033, relating to variances for private sewage systems and mound systems. It's my understanding that these two administrative rules have been referred to the Committee on Human Resources, Labor, Tourism, Veterans and Military Affairs.

These rule proposals are highly controversial, and I believe your committee would be well served to take testimony and hear various viewpoints on the issue.

Some of the questions that should be addressed include the following:

Does the Department of Industry, Labor and Human Relations (DILHR) have statutory authority to grant variances for new private sewage treatment systems? Sec. 145.24, Stats., authorizes DILHR to grant variances for existing systems. Generally, when interpreting statutes, the express grant of authority for one thing implies the exclusion of others. If DILHR is allowed to unilaterally determine it has authority to issue variances for new systems, what is the purpose of sec. 145.24, Stats.?

Why are these makeshift revisions being proposed, rather than a complete re-write of ILHR 83, Wis. Admin. Code, as was earlier proposed by DILHR?

If DILHR grants a variance to siting standards for private sewage systems, how will it assure that the proposed variant system will comply with the

Senator Zien  
March 7, 1996  
Page Two

requirements of ch. 160, Stats., Wisconsin's groundwater law? Will monitoring be required for each system that is granted a variance to siting or design standards? If effluent from variant private sewage systems attains or exceeds a preventive action limit or enforcement standard, how will DILHR respond - as required by secs. 160.23 and 160.25, Stats.?

Why hasn't an environmental impact statement been prepared for these rule proposals? Is DILHR's limited environmental assessment correct?

Is it appropriate for DILHR to be relaxing the current siting standards for mound systems? Is this dauntless reliance on new technology justified? Will these rules protect groundwater, the environment and public health? Not too long ago, the Legislature limited new mound installations to about 100 a year.

What are the land use implications of these rules? Will they encourage urban sprawl?

Why did the governor's last budget repeal sec. 144.025(2)(p), Stats., which required the DILHR to get approval from the Department of Natural Resources for rules relating to private sewage systems? What is DNR's opinion about these rules?

Who will ultimately pay when these systems fail and cause environmental and public health problems?

As you can see, I have a great deal of concern with these proposed rules. I also know of many other groups and individuals with similar concerns. These questions and concerns really need to be discussed.

Again, I request that your committee hold a public hearing on the above-mentioned DILHR rule proposals.

Thanks for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Burke", with a stylized, cursive script.

BRIAN BURKE  
State Senator